

NORTH CAROLINA GENERAL ASSEMBLY
1971 SESSION

CHAPTER 799
HOUSE BILL 948

AN ACT TO REWRITE THE HOSPITAL AUTHORITIES LAW SO AS TO MAKE
IT APPLICABLE TO EVERY COUNTY AND CITY.

The General Assembly of North Carolina do enact:

Section 1. Article 12 of Chapter 131 of the General Statutes is hereby rewritten to read as follows:

"Article 12.

"HOSPITAL AUTHORITIES LAW.

"§ 131-90. **Short title.** – This Article may be referred to as the 'Hospital Authorities Law.'

"§ 131-91. **Finding and declaration of necessity.** – It is hereby declared that conditions resulting from the concentration of population in various cities, towns and counties of the State require the construction, maintenance and operation of adequate hospital facilities for the care of the public health and for the control and treatment of epidemics, for the care of the indigent and for the public welfare; that in various cities, towns and counties of the State there is a lack of adequate hospital facilities available to the inhabitants thereof and that consequently many persons including persons of low income are forced to do without adequate medical and hospital care and accommodations; that these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the State and impair economic values; that the aforesaid conditions also exist in certain areas surrounding such cities, towns and counties; that these conditions cannot be remedied by the ordinary operations of private enterprises; that the providing of adequate hospital and medical care are public uses and purposes for which public money may be spent and private property acquired; that it is in the public interest that adequate hospital and medical facilities and care be provided in order to care for and protect the health and public welfare; and the necessity in the public interest for the provision hereinafter enacted is hereby declared as a matter of legislative determination.

"§ 131-92. **Definitions.** – The following terms, wherever used or referred to in this Article, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) 'Authority' or 'hospital authority' shall mean a public body and a body corporate and politic organized in accordance with the provisions of this Article for the purposes, with the powers and subject to the restrictions hereinafter set forth.

(2) 'Board of county commissioners' shall mean the legislative body charged with governing the county.

(3) 'Bonds' shall mean any bonds, interim certificates, notes, debentures, or other obligations of the authority issued pursuant to this Article.

(4) 'City' shall mean any city or town which is, or is about to be, included in the territorial boundaries of an authority when created hereunder.

(5) 'City clerk' and 'mayor' shall mean the clerk and mayor, respectively, of the city or the officers thereof charged with the duties customarily imposed on the clerk and mayor, respectively.

(6) 'Commissioner' shall mean one of the members of an authority appointed in accordance with the provisions of this Article.

(7) 'Contract' shall mean any agreement of an authority with or for the benefit of an obligee whether contained in a resolution, trust indenture, mortgage, lease, bond or other instrument.

(8) 'Council' shall mean the legislative body, council, board of commissioners, board of trustees, or other body charged with governing the city, town or county.

(9) 'County' shall mean the county which is, or is about to be, included in the territorial boundaries of an authority when created hereunder.

(10) 'County clerk' and 'chairman of the board of county commissioners' shall mean the clerk and chairman, respectively, of the county or the officers thereof charged with the duties customarily imposed on the clerk and chairman, respectively.

(11) 'Federal government' shall include the United States of America, the federal emergency administration of public works or any agency, instrumentality, corporate or otherwise, of the United States of America.

(12) 'Government' shall include the State and federal governments and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.

(13) 'Hospital facilities' means any one or more buildings, structures, additions, extensions, improvements or other facilities, whether or not located on the same site or sites, machinery, equipment, furnishings or other real or personal property suitable for health care or medical care; and includes, without limitation, general hospitals, chronic diseases, maternity, mental, tuberculosis and other specialized hospitals; nursing or convalescent facilities; public health center facilities; housing or quarters for local public health departments; facilities for intensive care and self-care; clinics and out-patient facilities; clinical, pathological and other laboratories; hospital research facilities, laundries; residences and training facilities for nurses, interns, physicians and other staff members, food preparation and food service facilities; administration buildings, central service and other administrative facilities; communication, computer and other electronic facilities, firefighting facilities, pharmaceutical and recreational facilities; storage space, X-ray, laser, radiotherapy and other apparatus and equipment; dispensaries, utilities, vehicular parking lots and garages; office facilities for hospital staff members and physicians; and such other health and hospital facilities customarily under the jurisdiction of or provided by hospitals, or any combination of the foregoing, with all necessary, convenient or related interests in land, machinery, apparatus, appliances, equipment, furnishings, appurtenances, site preparation, landscaping and physical amenities.

(14) 'Municipality' shall mean any county, city, town or incorporated village, other than the city as defined above, which is located within or partially within the territorial boundaries of an authority.

(15) 'Obligee of the authority' or 'obligee' shall include any bondholder, trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a hospital facility or any assignee or assignees of such lessor's interest or any part thereof, and the United States of America, when it is a party to any contract with the authority.

(16) 'Real property' shall include lands, lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise.

(17) 'State' shall mean the State of North Carolina.

(18) 'Trust indenture' shall include instruments pledging the revenues of real or personal properties but not conveying such properties or conferring a right to foreclosure and cause a sale thereof.

"§ 131-93. Creation of authority. – If the council of any city, town or county or the board of county commissioners of any county in the State shall, upon such investigation as it deems necessary, determine:

(1) That there is a lack of adequate hospital facilities and medical accommodations from the operations of private enterprises in the city, town or county and said surrounding area; and/or

(2) That the public health and welfare, including the health and welfare of persons of low income in the city, town or county and said surrounding area, require the construction, maintenance or operation of public hospital facilities for the inhabitants thereof; the council or board of county commissioners shall adopt a resolution so finding (which need not go into any detail other than the mere finding) and shall cause notice of such determination to be given to the mayor or the chairman of the board of county commissioners, who shall thereupon appoint, as hereinafter provided, not less than six and not more than thirty commissioners to act as an authority. Said commission shall be a public body and a body corporate and politic upon the completion of the taking of the following proceedings:

The commissioners shall present to the Secretary of State an application signed by them, which shall set forth (without any detail other than the mere recital):

(1) That the council has made the aforesaid determination after such investigation, and that the mayor or chairman of the board of county commissioners has appointed them as commissioners;

(2) The name and official residence of each of the commissioners, together with a certified copy of the appointment evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire the hospital authority to become a public body and a body corporate and politic under this Article;

(3) The term of office of each of the commissioners;

(4) The name which is proposed for the corporation; and

(5) The location and the principal office of the proposed corporation.

The application shall be subscribed and sworn to by each of the said commissioners before an officer authorized by the laws of the State to take and certify oaths, who shall certify upon the application that he personally knows the commissioners and knows them to be the officers as asserted in the application, and that each subscribed and swore thereto in the officer's presence. The Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical with that of a person or of any other corporation of this State or so nearly similar as to lead to confusion and uncertainty he shall receive and file it and shall record it in an appropriate book of record in his office.

When the application has been made, filed and recorded, as herein provided, the authority shall constitute a public body and a body corporate and politic under the name proposed in the application; the Secretary of State shall make and issue to the said commissioners a certificate of incorporation pursuant to this Article, under the seal of the State, and shall record the same with the application.

The boundaries of such authority shall include said city, town or county and the area within ten miles from the territorial boundaries of any city, town or county but in no event shall it include the whole or part of any area included within the boundaries of another authority. In case an area lies within ten miles of the boundaries of more than one city, town or county such area shall be deemed to be within the boundaries of the authority embracing such area which was first established, all priorities to be determined on the basis of the time of issuance of the aforesaid certificates by the Secretary of State. After the creation of an authority, the subsequent existence within its territorial boundaries of more than one city, town or county shall in no way affect the territorial boundaries of such authority.

In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have been established in accordance with the provisions of this Article upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible in evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof.

"§ 131-93.1 Change of name by authority. – An authority created and existing pursuant to this Article, may at any time, by resolution adopted by a majority of the commissioners, change its name. A copy of such resolution, duly verified by the chairman and secretary of the board of commissioners before an officer authorized by the laws of this State to take and certify oaths, shall be delivered to the Secretary of State, together with a conformed copy thereof. If the Secretary of State shall find that the proposed name is not identical with that of a person or of any other corporation of this State, or so nearly similar as to lead to confusion and uncertainty, he shall receive and file it, and shall record it in an appropriate book of record in his office, and thereupon return to the authority the conformed copy, together with a certificate stating that attached thereto is a true copy of the document filed in his office and showing the date of such filing.

"§ 131-94. Appointment qualifications, and tenure of commissioners. – An authority shall consist of not less than six and not more than thirty commissioners

appointed by the mayor, or the chairman of the board of county commissioners and he shall designate the first chairman.

One-third of the commissioners who are first appointed shall be designated by the mayor, or the chairman of the board of county commissioners to serve for terms of one year, one-third to serve for terms of two years, and one-third to serve for terms of three years respectively from the date of their appointment. Thereafter, the term of office shall be three years. A commissioner shall hold office until his successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term. In the event of an increase in the number of commissioners, or in the event of a vacancy or vacancies in the membership of the board by expiration of term of office or otherwise, the remaining members of the board shall submit to the mayor, or the chairman of the board of county commissioners nominations for appointments. The mayor, or chairman of the board of county commissioners may successively require any number of additional nominations, and shall have power to appoint any person so nominated. All such vacancies shall be filled from such nominations. A majority of the commissioners shall constitute a quorum. The mayor shall file with the city clerk, or the chairman of the board of county commissioners shall file with the county clerk a certificate of the appointment or reappointment of any commissioner and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services but he shall be entitled to the necessary expenses including traveling expenses incurred in the discharge of his duties.

When the office of the first chairman of the authority becomes vacant, the authority shall select a chairman from among its members. An authority shall select from among its members a vice-chairman, and it may employ a secretary, technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. An authority may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

"§ 131-95. Duty of the authority and commissioners of the authority. – The authority and its commissioners shall be under a statutory duty to comply or to cause compliance strictly with all provisions of this Article and the laws of the State and in addition thereto, with each and every term, provision and covenant in any contract of the authority on its part to be kept or performed.

"§ 131-96. Interested commissioners or employees. – No commissioner or employee of an authority shall acquire any interest direct or indirect in any hospital facility or in any property included or planned to be included in any facility, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any hospital facility. If any commissioner or employee of an authority owns or controls an interest direct or indirect in any property included or planned to be included in any hospital facility, he shall immediately disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure to so disclose such interest shall constitute misconduct in office.

"§ 131-97. Removal of commissioners. – The mayor or chairman of the board of county commissioners may remove a commissioner for inefficiency or neglect of duty or misconduct in office, but only after the commissioner shall have been given a copy of the charges against him (which may be made by the mayor or chairman of the board of county commissioners) at least ten days prior to the hearing thereon and had an opportunity to be heard in person or by counsel.

Any obligee of the authority may file with the mayor or chairman of the board of county commissioners written charges that the authority is violating willfully any law of the State or any term, provision or covenant in any contract to which the authority is a party. The mayor or the chairman of the board of county commissioners shall give each of the commissioners a copy of such charges at least ten days prior to the hearing thereon and an opportunity to be heard in person or by counsel and shall within fifteen days after receipt of such charges remove any commissioners of the authority who shall have been found to have acquiesced in any such willful violation.

If, after due and diligent search, a commissioner to whom charges are required to be delivered hereunder cannot be found within the county where the authority is located, such charges shall be deemed served upon said commissioner if mailed to him at his last known address as same appears upon the records of the authority.

A commissioner shall be deemed to have acquiesced in a willful violation by the authority of a law of this State or of any term, provision or covenant contained in a contract to which the authority is a party, if, before a hearing is held on charges against him, he shall not have filed a written statement with the authority of his objections to, or lack of participation in, such violation.

In the event of the removal of any commissioner, the mayor shall file in the office of the city clerk, or the Chairman of the board of county commissioners shall file with the county clerk a record of the proceedings together with the charges made against the commissioners and the findings thereon.

"§ 131-98. Power of authority. – (a) Powers Generally: Enumeration. An authority shall constitute a public body and a body corporate and politic exercising public powers, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Article, including the following powers in addition to others herein granted:

- (1) To investigate into hospital, medical and health conditions and into the means and methods of improving such conditions;
- (2) To determine where inadequate hospital and medical facilities exist;
- (3) To study and make recommendations concerning the plan of any city, town or county located within its boundaries in relation to the problem of providing adequate hospital, medical and nursing facilities, and the providing of adequate hospital, medical and nursing facilities for the inhabitants of such city, town or county and area, including persons of low income in such city, town or county and area;
- (4) To prepare, carry out and operate hospital facilities;

- (5) To provide and operate out-patient departments, maternity clinics and any other clinics customarily operated in hospitals in metropolitan centers;
- (6) To provide teaching and instruction programs and schools for medical students, interns, physicians and nurses;
- (7) To provide and maintain continuous resident physician and intern medical services;
- (8) To appoint an administrator, a superintendent or matron, and necessary assistants, and any and all other employees deemed necessary or advisable and fix their compensation, and to remove such appointees;
- (9) To adopt bylaws for the conduct of its business;
- (10) To adopt necessary rules and regulations for the government of the authority and its employees;
- (11) To enter into contracts for necessary supplies, equipment or services incident to the operation of its business;
- (12) To appoint such committees or subcommittees as it shall deem advisable, and fix their duties and responsibilities, and to do all things necessary in connection with the construction, repair, reconstruction, management, supervision, control and operation of its business, including but not limited to the hospital and all departments thereof;
- (13) To accept donations of money, personal property or real estate for the benefit of the authority and take title thereto from any person, firm, corporation or society desiring to make such donations;
- (14) To determine and regulate the conditions under which the privilege of practicing within any hospital operated by the authority may be available to physicians, and to promulgate reasonable rules and regulations governing the conduct of physicians and nurses while on duty in said hospital;
- (15) To establish and maintain a training school for nurses;
- (16) To make rules and regulations governing the admission of patients to, and the care, conduct, and treatment of e patients in, the hospital;
- (17) To determine whether patients presented to the hospital for treatment are subjects for charity and to fix the compensation to be paid by patients other than those unable to assist themselves;
- (18) To maintain and operate isolation wards for the care and treatment of mental, contagious or other similar diseases;
- (19) To provide for the construction, reconstruction, improvement, alteration or repair of any hospital facility or any part thereof;
- (20) To take over by purchase, lease or otherwise any hospital facility located within its boundaries undertaken by any government, or by any city, town or county located in whole or in part within its boundaries;
- (21) To acquire by purchase, gift, devise, lease, condemnation or otherwise any existing hospital facilities provided, that no property belonging to any city, town or county or to any government or to any religious or

charitable corporation or to any existing hospital or clinic may be acquired without its consent and that no property belonging to a public utility corporation may be acquired without the approval of the commission or other officer or tribunal, if any there be, having regulatory power over such corporation;

- (22) To enter into contracts or other arrangements with any municipality or other public agency of this or any other state or of the United States or with any individual, private organization or nonprofit association for the provision of hospital, clinic, or similar services;
- (23) To lease any hospital facilities to or from any municipality or other public agency of this or any other state or of the United States or to any individual, corporation or association on such terms and subject to such conditions as will carry out the purposes of this Article. The authority may provide in any lease made hereunder for the lessee to use, operate, manage and control the hospital facilities, and to exercise designated powers in connection therewith, in the same manner as the authority itself might do;
- (24) To act as agent for the federal, State or local government in connection with the acquisition, construction, operation and/or management of a hospital facility, or any part thereof;
- (25) To arrange with any city, town or county located in whole or in part within its boundaries or with a government for the furnishing, planning, replanning, installing, opening or closing of streets, roads, roadways, alleys, sidewalks or other places or facilities, or for the acquisition by such city, town or county or a government of property, options or property rights or for the furnishing of property or services in connection with a facility;
- (26) To arrange with the State, its subdivisions and agencies, and any county, city or town of the State, to the extent that it is within the scope of each of their respective functions,
 - a. To cause the services customarily provided by each of them to be rendered for the benefit of such hospital authority and
 - b. To provide and maintain parks and sewage, water and other facilities adjacent to or in connection with hospital facilities and to lease or rent any of the dwelling or other accommodations or any of the lands, buildings, structures or facilities embraced in any hospital facility and to establish and revise the rents or charges therefor;
- (27) To purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise or otherwise any property real or personal or any interest therein from any person, firm, corporation, city, town or county, or government;
- (28) To acquire by eminent domain any real property, including improvements and fixtures thereon provided, that no property

belonging to any city, town or county or to any government or to any religious or charitable corporation or to any existing hospital or clinic may be acquired without its consent and that no property belonging to a public utility corporation may be acquired without the approval of the commission or other officer or tribunal, if any there be, having regulatory power over such corporation;

- (29) To sell, exchange, transfer, assign, or pledge any property real or personal or any interest therein to any person, firm, corporation, city, town or county or government;
- (30) To own, hold, clear and improve property;
- (31) To insure or provide for insurance of the property or operations of the authority against such risks as the authority may deem advisable;
- (32) To borrow money upon its bonds, notes, debentures or other evidences of indebtedness and to secure the same by pledges of its revenues in the manner and to the extent hereinafter provided;
- (33) In connection with any loan by a government, to agree to limitations upon the exercise of any powers conferred upon the authority by this Article;
- (34) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which trustees, guardians, executors, administrators, and others acting in a fiduciary capacity may legally invest funds subject to their control;
- (35) To sue and be sued;
- (36) To have a seal and alter the same at pleasure;
- (37) To have perpetual succession;
- (38) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority;
- (39) To make and from time to time amend and repeal bylaws, rules and regulations not inconsistent with this Article, to carry into effect the powers and purposes of the authority.

(b) Exercise the Powers through Agents; Corporate Agents. An authority may exercise any or all of the powers herein conferred upon it, either generally or with respect to any specific hospital facility or facilities, through or by an agent or agents which it may designate, including any corporation or corporations which are or shall be formed under the laws of this State.

(c) Implied Powers. In addition to all of the other powers herein conferred upon it, an authority may do all things necessary and convenient to carry out the powers expressly given in this Article.

(d) Certain Provisions Not Applicable to Authority. No provisions with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to an authority unless the legislature shall specifically so state.

"§ 131-99. Eminent domain. – The authority shall have the right to acquire by eminent domain any real property, including fixtures and improvements, which it may deem necessary to carry out the purposes of this Article after the adoption by it of a resolution

declaring that the acquisition of the property described therein is in the public interest and necessary for public use. The authority may exercise the power of eminent domain pursuant to the provisions of either:

- (1) G.S. 40-11 to G.S. 40-29;
- (2) Any other applicable statutory provision now in force or hereafter enacted for the exercise of the power of eminent domain.

Property already devoted to a public use may be acquired, provided, that no property belonging to any city, town, or county or to any government or to any religious or charitable corporation or to any existing hospital or clinic may be acquired without its consent and that no property belonging to a public utility corporation may be acquired without the approval of the commission or other officer or tribunal, if any there be, having regulatory power over such corporation.

"§ 131-100. Zoning and building laws. – All hospital facilities shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which the hospital facility is situated.

"§ 131-101. Types of bonds. – The authority shall have power and is hereby authorized from time to time in its discretion to issue for the purpose only of construction, furnishing and equipping new buildings or additions to existing buildings:

Bonds on which the principal and interest are payable exclusively from the income and revenues of the facility constructed, furnished and equipped with the proceeds of such bonds or with such proceeds together with the proceeds of a grant from the federal government to aid in financing, furnishing or equipment thereof, provided, however, that the credit of the authority shall not be pledged to the payment of such bonds, but such bonds shall be payable only (and the bonds shall so state on their face) from the revenues of the designated hospital facility or facilities, and if the authority so determines, shall be additionally secured by a trust indenture pledging such revenues from such designated hospital facility or facilities.

Neither the commissioners of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

The bonds and other obligations of the authority (and such bonds and obligations shall so state on their face) shall not be a debt of any city, town or county located within its boundaries or of the State and neither the State nor any such city, town or county shall be liable thereon, nor in any event shall they be payable out of any funds or properties other than those of the authority. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation of the laws of the State. Bonds may be issued under this Article notwithstanding any debt or other limitation prescribed in any statute.

"§ 131-102. Form and sale of bonds. – The bonds of the authority shall be authorized by its resolution and shall be issued in one or more series and shall bear such date or dates, mature at such time or times, not exceeding sixty years from their respective dates, bear interest at such rate or rates, be in such denominations (which may be made interchangeable), be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such

place or places, and be subject to such terms of redemption (with or without premium) as such resolution or its trust indenture or mortgage may provide.

The bonds shall be sold at public sale held after notice published once at least ten days prior to such sale in a newspaper having a general circulation in the city, town or county and in a financial newspaper published in the city of New York, New York, or in the city of Chicago, Illinois, and; provided that if no bid is received upon such notice which is a legal bid and legally acceptable under such notice, then and in that event the bonds may be sold at private sale at any time within the thirty days after the date for receiving bids given in such notice, provided, however, that such bonds may be sold to the federal government at private sale without any public advertisement. The bonds may be sold at such price or prices as the authority shall determine.

Pending the authorization, preparation, execution or delivery of definitive bonds, the authority may issue interim certificates, or other temporary obligations, to the purchaser of such bonds. Such interim certificates, or other temporary obligations, shall be in such form, contain such terms, conditions and provisions, bear such date or dates, and evidence such agreements relating to their discharge or payment or the delivery of definitive bonds as the authority may by resolution, trust indenture or mortgage determine.

In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until such delivery.

The authority shall have power out of any funds available therefor to purchase any bonds issued by it at a price not more than the principal amount thereof and the accrued interest; provided, however, that bonds payable exclusively from the revenues of a designated facility or facilities shall be purchased out of any such revenues available therefor. All bonds so purchased shall be canceled. This paragraph shall not apply to the redemption of bonds.

Any provision of any law to the contrary notwithstanding, any bonds, interim certificates, or other obligations issued pursuant to this Article shall be fully negotiable.

"§ 131-103. Provisions of bonds, trust indentures, and mortgages. – In connection with the issuance of bonds and/or the incurring of any obligation under a lease and in order to secure the payment of such bonds and/or obligations, the authority shall have power:

(1) To pledge by resolution, trust indenture, mortgage (subject to the limitations herein imposed), or other contract, all or any part of its rents, fees, or revenues.

(2) To covenant against mortgaging all or any part of its property, real or personal, then owned or thereafter acquired, or against permitting or suffering any lien thereon.

(3) To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any hospital facility or any part thereof, or with respect to limitations on its right to undertake additional hospital facilities.

(4) To covenant against pledging all or any part of its rents, fees and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon.

(5) To provide for the release of property, rents, fees and revenues from any pledge or mortgage, and to reserve rights and powers in, or the right to dispose of, property which is subject to a pledge or mortgage.

(6) To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, mortgage or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof.

(7) To covenant as to what other, or additional debt, may be incurred by it.

(8) To provide for the terms, form, registration, exchange, execution and authentication of bonds.

(9) To provide for the replacement of lost, destroyed or mutilated bonds.

(10) To covenant as to the use of any or all of its property, real or personal.

(11) To create or to authorize the creation of special funds in which there shall be segregated

- a. The proceeds of any loan and/or grant;
- b. All of the rents, fees and revenues of any hospital facility or facilities or parts thereof;
- c. Any moneys held for the payment of the costs of operation and maintenance of any such hospital facilities or as a reserve for the meeting of contingencies in the operation and maintenance thereof;
- d. Any moneys held for the payment of the principal and interest on its bonds or the sums due under its leases and/or as a reserve for such payments; and
- e. Any moneys held or any other reserve or contingencies; and to covenant as to the use and disposal of the moneys held in such funds.

(12) To redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(13) To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner.

(14) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(15) To covenant as to the maintenance of its property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(16) To vest in an obligee of the authority the right, in the event of the failure of the authority to observe or perform any covenant on its part to be kept or performed, to cure any such default and to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation of the authority with such interest, security and priority as may be provided in any trust indenture, mortgage, lease or contract of the authority with reference thereto.

(17) To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due

before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.

(18) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation.

(19) To covenant to surrender possession of all or any part of any hospital facility or facilities the revenue from which has been pledged or mortgaged for the purpose of constructing, furnishing, and equipping new buildings or additions to existing buildings as provided for in this Article upon the happening of any event of default (as defined in the contract) and to vest in an obligee the right without judicial proceeding to take possession and to use, operate, manage and control such hospital facilities or any part thereof, and to collect and receive all rents, fees and revenues arising therefrom in the same manner as the authority itself might do and to dispose of the moneys collected in accordance with the agreement of the authority with such obligee.

(20) To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or, in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any such covenant.

(21) To make covenants other than in addition to the covenants herein expressly authorized, of like or different character.

(22) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified, as the government of any purchaser of the bonds of the authority may reasonably require.

(23) To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the authority tend to make the bonds more marketable; notwithstanding that such covenants, acts or things may not be enumerated herein; it being the intention hereof to give the authority power to do all things in the issuance of bonds, in the provisions for their security that are not inconsistent with the Constitution of the State and no consent or approval of any judge or court shall be required thereof; and provided that the authority may not pledge or mortgage the revenue from any facility excepting one newly constructed, furnished and equipped in whole or in part with funds derived or to be derived from the sale of bonds secured by such pledge or mortgage.

"§ 131-104. Remedies of an obligee of authority. – An obligee of the authority shall have the right in addition to all other rights which may be conferred on such obligee subject only to any contractual restrictions binding upon such obligee:

(1) By mandamus, suit, action or proceeding in law or equity (all of which may be joined in one action) to compel the authority, and the commissioners, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of the authority, and to require the carrying out of any or all covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by this Article.

(2) By suit, action or proceeding in equity to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of the authority.

"§ 131-105. Additional remedies conferrable by mortgage or trust indenture. – Any authority shall have power by its trust indenture, mortgage, lease or other contract to confer upon any obligee holding or representing a specified amount in bonds, lease or other obligations the right upon the happening of an 'event of default' as defined in such instrument:

(1) By suit, action or proceeding in any court of competent jurisdiction to obtain the appointment of a receiver of any hospital facility of the authority or any part or parts thereof, constructed, equipped and furnished in whole or in part from funds derived or to be derived in whole or in part from the sale of bonds secured by the pledge or mortgage of the revenues from such property. If such receiver be appointed, he may enter and take possession of such hospital facility or any part or parts thereof and operate and maintain same, and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom in the same manner as the authority itself might do and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of the authority as the court shall direct.

(2) By suit, action or proceeding in any court of competent jurisdiction to require the authority and the commissioners thereof to account as if it and they were the trustees of an express trust.

"§ 131-106. Remedies cumulative. – All the rights and remedies hereinabove conferred shall be cumulative and in addition to all other rights and remedies that may be conferred upon such obligee of the authority by law or by any contract with the authority.

"§ 131-107. Limitations on remedies of obligee. – No interest of the authority in any property, real or personal, shall be subject to sale by the foreclosure of a mortgage thereon, either through judicial proceedings or the exercise of a power of sale contained in such mortgage. All property of the authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same. No judgment against the authority shall be a charge or lien upon its property, real or personal.

"§ 131-108. Contracts with federal government. – In addition to the powers conferred upon the authority by other provisions of this Article, the authority is empowered to borrow money and/or accept grants from the federal government for or in aid of the construction of any hospital facility which such authority is authorized by this Article to undertake, to take over any land acquired by the federal government or the construction of a hospital facility, to take over or lease or manage any hospital facility constructed or owned by the federal government, and to these ends, to enter into such contracts, mortgages, trust indentures, leases or other agreements that the federal government shall have the right to supervise and approve the construction, maintenance and operation of such hospital facility. It is the purpose and intent of this Article to authorize every authority to do any and all things necessary to secure the financial aid and the co-operation of the federal government in the construction, maintenance and

operation of any hospital facility which the authority is empowered by this Article to undertake.

"§ 131-109. Security for funds deposited by authority. – The authority may by resolution provide that all moneys deposited by it shall be secured

(1) By obligations of the United States or of the State of a market value equal at all times to the amount of such deposits or

(2) By any securities in which trustees, guardians, executors, administrators and others acting in a fiduciary capacity may legally invest funds within their control or

(3) By an undertaking with such sureties as shall be approved by the authority faithfully to keep and pay over upon the order of the authority any such deposits and agreed interest thereon, and all banks and trust companies are authorized to give any such security for such deposits.

"§ 131-110. Tax exemptions. – The authority shall be exempt from the payment of any taxes or fees to the State or any subdivisions thereof, or to any officer or employee of the State or any subdivision thereof. The property of an authority shall be exempt from all local and municipal taxes and for the purposes of such tax exemption, it is hereby declared as a matter of legislative determination that an authority is and shall be deemed to be a municipal corporation. Bonds, notes, debentures and other evidences of indebtedness of an authority are declared to be issued for a public purpose and to be public instrumentalities and, together with interest thereon, shall be exempt from taxes.

"§ 131-111. Reports. – The authority shall at least once a year file with the mayor of the city or town or the chairman of the board of county commissioners an audit report by a certified public accountant of its activities for the preceding year, and shall make any recommendations with reference to any additional legislation or other action that may be necessary in order to carry out the purposes of this Article.

"§ 131-112. Certificate of public convenience and necessity prerequisite to exercise of power of eminent domain; powers of Utilities Commission. – Notwithstanding any finding of public convenience and necessity, either in general or specific, by the terms of this Article, the right of eminent domain shall not be exercised unless and until a certificate of public convenience and necessity for such facility has been issued by the Utilities Commission of North Carolina, and the proceedings leading up to the issuing of such certificate of public convenience and necessity, and the right to appeal therefrom shall as near as may be follow the proceedings now provided by law for obtaining such a certificate under the Motor Vehicle Carrier Act, and said rights are hereby expressly reserved to all interested parties in said proceedings. In addition to the powers now granted by law to the Utilities Commission of North Carolina, the said Utilities Commission is hereby vested with full power and authority to investigate and examine all facilities set up or attempted to be set up under the provisions of this Article and determine the question of the public convenience and necessity for said facility.

"§ 131-113. Exemption from the Local Government Act, and from the County Fiscal Control Act. – The authority shall be exempt from the operation and provisions of Chapter 60 of the Public Laws of 1931 (codified as G.S. 159-1 et seq., and G.S. 160-409 to G.S. 160-412), known as the 'Local Government Act', and the amendments

thereto and from G.S. 153-114 to G.S. 153-141, known as the 'County Fiscal Control Act', and the amendments thereto.

"§ 131-114. Appropriations by city, town or county. – The governing body of any city, town or county in which the authority is located may appropriate each year, not exceeding five per cent of its general fund for the improvement, maintenance or operation of any public hospital or hospital facility constructed, maintained, or operated by or to be constructed, maintained or operated by an authority, and moneys so appropriated and paid to a hospital authority by a city, town or county shall be deemed a necessary expense of such city, town or county.

"§ 131-115. Conveyance, lease or transfers of property by a city, town or county to an authority; right to name commissioners of authority. – Any city, town or county in order to provide for the construction, reconstruction, improvement, repair or management of any hospital or hospital facility or in order to accomplish any of the purposes of this Article may, with or without consideration or for a nominal consideration, lease, sell, convey or otherwise transfer to an authority, within the territorial boundaries of which such city, town or county is wholly or partly located, any real, personal or mixed property including, but not limited to, any existing hospital or hospital facility as a going concern or otherwise, and including the assignment and transfer of any part of or all money, choses in action and other assets used or held for the use of such hospital or hospital facility and in connection with any such transaction the authority involved may accept such lease, transfer, assignment and conveyance and bind itself to the performance and observation of any agreements and conditions attached thereto.

In the event any city, town or county shall sell, convey or otherwise irrevocably transfer to an authority property pursuant to this section having a market value in excess of one hundred thousand dollars (\$100,000) and in the event the authority accepts the conveyance, the mayor of the governing body of such city or town or the chairman of the board of county commissioners shall thereafter have the right to name to the authority, to serve as commissioners, for three-year terms such number of persons as, when compared with the existing membership of the authority, will, in the sole opinion of the governing body of such city, town or county and the authority, fairly represent the approximate relationship of the total value of the property being transferred to the total value of the property already held by the authority, but in no event shall fewer than two persons nor more than nine persons be added to the authority. The size of the authority shall be increased by the number thus added. The times of commencement and of expiration of the initial terms of those being added shall be determined by agreement between the authority and the governing body, and copies of the agreement setting out the number of persons being added and the terms shall be filed with the clerk of such city or town or the clerk of the board of county commissioners and thereafter copies of reports referred to in G.S. 131-111 shall be filed with the clerk of such city or town or the clerk of the board of county commissioners.

"§ 131-116. Article controlling. – Insofar as the provisions of this Article are inconsistent with the provisions of any other law, the provisions of this Article shall be controlling, provided that nothing in this Article shall prevent any city, town or county

from establishing, equipping and operating a hospital or hospitals or improving or extending existing hospitals and hospital facilities under the provisions of its charter or any general law other than this Article; nor, shall the provisions of this Article impair, limit or affect the rights and powers of duly organized and existing hospital authorities created or established prior to the ratification of this act.

"§ 131-116.1. Article applicable to City of High Point. – All the provisions of this Article shall apply to the City of High Point, Guilford County, North Carolina, as fully as if the population of such city exceeded seventy-five thousand (75,000) inhabitants."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1971.